

back rights of the debtor. For information on discharge of indebtedness reporting requirements see § 1015.405 of this part.

§ 1015.307 Mutual releases of the debtor and the Government.

In all appropriate instances, a compromise that is accepted by DOE will be implemented by means of a mutual release, in which the debtor is released from further non-tax liability on the compromised debt in consideration of payment in full of the compromise amount and the Government and its officials, past and present, are released and discharged from any and all claims and causes of action arising from the same transaction that the debtor may have. In the event a mutual release is not executed when a debt is compromised, unless prohibited by law, the debtor is still deemed to have waived any and all claims and causes of action against the Government and its officials related to the transaction giving rise to the compromised debt.

Subpart D—Standards for Suspending or Terminating Collection Activity

§ 1015.400 Scope.

The subpart sets forth the standards for terminating collection activity. This subpart corresponds to 31 CFR part 903 of the Treasury Federal Claims Collection Standards.

§ 1015.401 Scope and application.

(a) The standards set forth in this subpart apply to the suspension or termination of collection activity pursuant to 31 U.S.C. 3711 on debts that do not exceed \$100,000, or such other amount as the Attorney General may direct, exclusive of interest, penalties, and administrative costs, after deducting the amount of partial payments or collections, if any. Prior to referring a debt to the DOJ for litigation, DOE may suspend or terminate collection under this part with respect to debts arising out of activities of, or referred to, DOE.

(b) If, after deducting the amount of any partial payments or collections, the principal amount of a debt exceeds \$100,000, or such other amount as the

Attorney General may direct, exclusive of interest, penalties, and administrative costs, the authority to suspend or terminate rests solely with the DOJ. If DOE believes that suspension or termination of any debt in excess of \$100,000 may be appropriate, DOE shall refer the debt to the Civil Division or other appropriate litigating division in the DOJ, using the CCLR. The referral should specify the reasons for DOE's recommendation. If, prior to referral to the DOJ, DOE determines that a debt is plainly erroneous or clearly without legal merit, DOE may terminate collection activity regardless of the amount involved without obtaining DOJ concurrence.

§ 1015.402 Suspension of collection activity.

(a) DOE may suspend collection activity on a debt when:

- (1) DOE cannot locate the debtor;
- (2) The debtor's financial condition is expected to improve; or
- (3) The debtor has requested a waiver or review of the debt.

(b) Based on the current financial condition of the debtor, DOE may suspend collection activity on a debt when the debtor's future prospects justify retention of the debt for periodic review and collection activity and:

- (1) The applicable statute of limitations has not expired; or
- (2) Future collection can be effected by administrative offset, notwithstanding the expiration of the applicable statute of limitations for litigation of claims, with due regard to the 10-year limitation for administrative offset prescribed by 31 U.S.C. 3716(e)(1); or
- (3) The debtor agrees to pay interest on the amount of the debt on which collection will be suspended, and such suspension is likely to enhance the debtor's ability to pay the full amount of the principal of the debt with interest at a later date.

(c)(1) DOE shall suspend collection activity during the time required for consideration of the debtor's request for waiver or administrative review of the debt if the statute under which the request is sought prohibits DOE from collecting the debt during that time. As indicated in § 1015.212(h), DOE will continue to accrue interest, penalties,

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and administrative costs during the period collection activity is suspended.

(2) If the statute under which the request is sought does not prohibit collection activity pending consideration of the request, DOE may use discretion, on a case-by-case basis, to suspend collection. Further, DOE ordinarily will suspend collection action upon a request for waiver or review if DOE is prohibited by statute or regulation from issuing a refund of amounts collected prior to DOE's consideration of the debtor's request. However, DOE will not suspend collection when DOE determines that the request for waiver or review is frivolous or was made primarily to delay collection.

(d) When DOE learns that a bankruptcy petition has been filed with respect to a debtor, in most cases the collection activity on a debt must be suspended, pursuant to the provisions of 11 U.S.C. 362, 1201, and 1301, unless DOE can clearly establish that the automatic stay has been lifted or is no longer in effect. DOE will seek legal advice immediately from counsel and, if legally permitted, take the necessary legal steps to ensure that no funds or money is paid by DOE to the debtor until relief from the automatic stay is obtained.

§ 1015.403 Termination of collection activity.

(a) DOE may terminate collection activity when:

(1) DOE is unable to collect any substantial amount through its own efforts or through the efforts of others;

(2) DOE is unable to locate the debtor;

(3) Costs of collection are anticipated to exceed the amount recoverable;

(4) The debt is legally without merit, or enforcement of the debt is barred by any applicable statute of limitations;

(5) The debt cannot be substantiated; or

(6) The debt against the debtor has been discharged in bankruptcy.

(b) Before terminating collection activity, DOE will have pursued all appropriate means of collection and determined, based upon the results of the collection activity, that the debt is uncollectible. Termination of collection activity ceases active collection of

the debt. The termination of collection activity does not preclude DOE from retaining a record of the account for purposes of:

(1) Selling the debt, if Treasury determines that such sale is in the best interests of the United States;

(2) Pursuing collection at a subsequent date in the event there is a change in the debtor's status or a new collection tool becomes available;

(3) Offsetting against future income or assets not available at the time of termination of collection activity; or

(4) Screening future applicants for prior indebtedness.

(c) Generally, DOE shall terminate collection activity on a debt that has been discharged in bankruptcy, regardless of the amount. DOE may continue collection activity, however, subject to the provisions of the Bankruptcy Code, for any payments provided under a plan of reorganization. Offset and recoupment rights may survive the discharge of the debtor in bankruptcy and, under some circumstances, claims also may survive the discharge. For example, if DOE is a known creditor of a debtor, its claims may survive a discharge if DOE did not receive formal notice of the proceedings. DOE will seek legal advice from counsel if it believes it has claims or offsets that may survive the discharge of a debtor.

§ 1015.404 Exception to termination.

When a significant enforcement policy is involved, or recovery of a judgment is a prerequisite to the imposition of administrative sanctions, DOE may refer debts for litigation even though termination of collection activity may otherwise be appropriate.

§ 1015.405 Discharge of indebtedness; reporting requirements.

(a) Before discharging a delinquent debt (also referred to as a close out of the debt), DOE shall take all appropriate steps to collect the debt in accordance with 31 U.S.C. 3711(g), including, as applicable, administrative offset, tax refund offset, Federal salary offset, referral to Treasury, Treasury-designated debt collection centers or private collection contractors, credit bureau reporting, wage garnishment, litigation, and foreclosure. Discharge